

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 234 of 2005 (S/B)

Dr. Brahma Prakash Sharma,
S/o Late J.P.N. Trivedi,
R/o L.I.G. 250 Avas Vikas Rudrapur,
District Udham Singh Nagar.

... Petitioner

Versus

1. State of Uttaranchal through Principal Secretary,
Medical, Anubhag-1,
Uttaranchal Shashan, Dehradun.
2. Director, Ayurvedic and Unani Services,
Uttaranchal, 3/23 Shastri Nagar, Haridwar Road,
District Dehradun.
3. Regional Ayurved and Unani Officer,
Near Maharaj Agra Sen Hospital,
Bhadaipura, Rudrapur,
District Udham Singh Nagar.
4. Reorganization Commissioner,
Uttaranchal, Vikas Bhawan,
7th Floor, Lucknow.

... Respondents.

Mr. Sharad Sharma, learned counsel for the petitioner.

**Coram: Hon. Cyriac Joseph, C.J.
Hon. J.C.S. Rawat, J.**

JUDGMENT

CYRIAC JOSEPH, C.J. (Oral)

1. The petitioner is an Ayurvedic Medical Officer now posted at Rajkiya Ayurvedic Chikitsalaya, Masheet, Rudradpur, Udham Singh Nagar. Consequent on the creation of the State of Uttaranchal, the petitioner had opted for the State of U.P. On the basis of his option, the petitioner is sought to be relieved from the State of Uttaranchal, as per Annexure 1 order dated 30.08.2005 issued by the first respondent. The petitioner does not question the authority or competence of the first respondent to issue Annexure 1 order. He also has no objection to his allotment to the State of U.P. The only grievance of the petitioner is that his daughter is in the third year of B.Com. Course in Government Degree College, Rudrapur and hence, he may not be

relieved from Rudrapur till the academic session is over i.e. till 30.06.2006. It is alleged that there are no proper hostel facilities at Rudrapur for accommodating the daughter till she completes the B.Com Course.

2. Though we have sympathy for the above-mentioned plight of the petitioner and though we can appreciate the difficulties to leave behind his daughter at Rudrapur, we are of the view that so long as the impugned order (Annexure 1) is not vitiated by any illegality, the Court cannot interfere with the order or compel the Government not to give effect to the said order till the time suggested by the petitioner. The only authority which can consider the grievance of the petitioner and take action to redress the grievance is the Government of Uttaranchal. However, the petitioner does not appear to have approached the Government in the matter. The first respondent cannot be expected to be aware of the personal difficulties and domestic problems of each office in the State. It is for the officer concerned to bring it to the notice of the Government if he wants the Government to redress his grievance.

3. Since the petitioner has not already been relieved from Rajkiya Ayurvedic Chikitsalaya, Masheet, Rudrapur, Udham Singh Nagar and since no substitute has taken charge, we are inclined to give an opportunity to the petitioner to approach the first respondent for redressal of his grievance and to direct the first respondent not to relieve the petitioner from Rajkiya Ayurvedic Chikitsalaya, Masheet, Rudrapur, Udham Singh Nagar till the representation of the petitioner is considered and disposed of by the Government.

4. Hence, the writ petition is disposed of with the following directions:

- i. If the petitioner makes a representation to the first respondent within one week from today, the first respondent

shall consider the representation sympathetically and pass appropriate orders within one month from the date of receipt of the representation.

- ii. If such a representation is submitted by the petitioner, the first respondent shall ensure that the petitioner is not relieved from Rajkya Ayurvedic Chikitsalaya, Masheet, Rudrapur, Udham Singh Nagar till the disposal of the representation.
- iii. If no representation is submitted by the petitioner within one week from today, the above directions will stand recalled and the writ petition will stand dismissed.

The petitioner may produce a copy of this judgment along with the representation before the first respondent for information and compliance.

(J.C.S. Rawat, J.)
22.09.2005

(Cyriac Joseph, C.J.)
22.09.2005